

**City of Miami Beach - City Commission Meeting
Commission Chambers, 3rd Floor, City Hall
1700 Convention Center Drive
October 15, 2003**

Mayor David Dermer
Vice-Mayor Matti Herrera Bower
Commissioner Simon Cruz
Commissioner Luis R. Garcia, Jr.
Commissioner Saul Gross
Commissioner Jose Smith
Commissioner Richard L. Steinberg

City Manager Jorge M. Gonzalez
City Attorney Murray H. Dubbin
City Clerk Robert E. Parcher

ATTENTION ALL LOBBYISTS

Chapter 2, Article VII, Division 3 of the City Code of Miami Beach entitled "Lobbyists" requires the registration of all lobbyists with the City Clerk prior to engaging in any lobbying activity with the City Commission, any City Board or Committee, or any personnel as defined in the subject Code sections. Copies of the City Code sections on lobbyists laws are available in the City Clerk's Office. Questions regarding the provisions of the Ordinance should be directed to the Office of the City Attorney.

ADDENDUM

- R7M A Resolution Waiving By 5/7th Vote, Competitive Bidding And Authorizing The City Manager To Execute An Agreement With Salvation Army, Miami Rescue Mission, Miami-Dade County Homeless Assistance Center, And St. Luke's Addiction Treatment Center, For Up To \$150,000 For The Provision Of Emergency Shelter Beds To The City Of Miami Beach's Homeless Population To Aggressively Pursue Homeless Outreach With Funding To Be Provided From Resort Tax Funds.
(Neighborhood Services)

R9 - New Business and Commission Requests

- R9J Discussion Regarding The Traffic Situation on La Gorce and Pinetree Drive.
(Requested By Vice-Mayor Bower)
- R9K Discussion Regarding Ordinance Amending City's Policy on Alcoholic Beverage Licenses At Adult Entertainment Establishments.
(Requested By Commissioner Cruz)

**CITY OF MIAMI BEACH
COMMISSION ITEM SUMMARY**



Condensed Title:

A Resolution waiving, by 5/7ths vote, competitive bidding and authorizing the City Manager to execute an agreement with Salvation Army, Miami Rescue Mission, Miami-Dade County Homeless Assistance Center, and St. Luke's Addiction Treatment Center for up to \$150,000 for the provision of emergency shelter beds to the City of Miami Beach's homeless population with funding to be provided from Resort Tax Funds.

Issue:

Shall the City of Miami Beach approve and authorize the City Manager to execute an agreement with Salvation Army, Miami Rescue Mission, Miami-Dade County Homeless Assistance Center and St. Luke's Treatment Addiction Center for up to \$150,000 for the provision of emergency shelter beds to the City of Miami Beach's homeless population to aggressively pursue homeless outreach and to report back to the Finance and Citywide Projects committee in three months.

Item Summary/Recommendation:


The Commission has authorized the use of \$150,000 to aggressively expand our homeless outreach efforts and to report back to the Finance and Citywide Projects committee in the first quarter of the year. At Present, the city has one shelter bed provider under contract. In order to assure available beds in a timely fashion the Administration is recommending contracts with multiple providers and the waving of competitive bidding to expedite the contracts. From a survey of emergency bed providers, four have been identified that will offer beds to the city. Contracting with Salvation Army, Miami Rescue Mission, Miami-Dade County Homeless Assistance Center and St. Luke's Addiction Treatment Center for any needed beds will fill the gap for additional beds and reduce the incidence of homelessness in Miami Beach. Furthermore, the varying supportive services among providers will enable the Neighborhood Services Department to place homeless clients based on their individual needs for supportive services, therefore ensuring more successful placements and the elimination of homelessness.

Advisory Board Recommendation:

N/A

Financial Information:

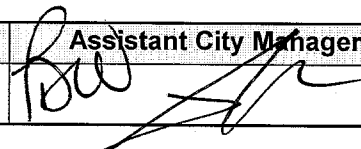
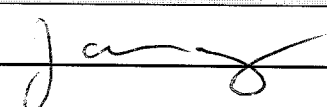
Source of Funds:		Amount	Account	Approved
	1	150,000	Resort Tax Funds	
	2			
	3			
	4			
	Total			


Finance Dept.

City Clerk's Office Legislative Tracking:

Neighborhood Services Department – Vivian P. Guzman

Sign-Offs:

Department Director	Assistant City Manager	City Manager
		

AGENDA ITEM R7M
DATE 10-15-03

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139
www.ci.miami-beach.fl.us



COMMISSION MEMORANDUM

To: Mayor David Dermer and
Members of the City Commission

Date: October 15, 2003

From: Jorge M. Gonzalez
City Manager

Subject: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, WAIVING, BY 5/7THS VOTE, COMPETITIVE BIDDING AND AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH SALVATION ARMY, MIAMI RESCUE MISSION, MIAMI-DADE COUNTY HOMELESS ASSISTANCE CENTER, AND ST. LUKE'S ADDICTION TREATMENT CENTER, FOR UP TO \$150,000 FOR THE PROVISION OF EMERGENCY SHELTER BEDS TO THE CITY OF MIAMI BEACH'S HOMELESS POPULATION TO AGGRESSIVELY PURSUE HOMELESS OUTREACH WITH FUNDING TO BE PROVIDED FROM RESORT TAX FUNDS.**

ADMINISTRATION RECOMMENDATION

Adopt the Resolution.

ANALYSIS

Currently, the City of Miami Beach contracts with the Salvation Army for 15 guaranteed emergency shelter beds. Our homeless plan calls for maintaining the existing beds and adding more emergency and/or transitional beds, as needed. However, the process for Requests for Proposals, including the selection of an evaluation committee and the actual recommendation, may take an additional one to two months. The Neighborhood Services Department has found that the occupancy of the City's contracted beds at the Salvation Army to be at or near 100% on a daily basis. This indicates a strong need to contract with other providers that can offer identical or similar emergency shelter beds with case management services. In order to continue and enhance the City's aggressive homeless outreach and placement, there is an immediate need to fill the gap for additional beds. Contracting with Salvation Army, Miami Rescue Mission, Miami-Dade County Homeless Assistance Center, and St. Luke's Addiction Recovery Center for needed beds will fill the gap for additional beds and reduce the incidence of homelessness in Miami Beach.

Based on our recent success with the City's homeless outreach and placement efforts, the additional resources will augment existing beds as well as our ability to expedite placements. This will allow the City to further expand the Continuum of Care necessary in treating the issues of homeless persons. The Continuum of Care is a model based on the understanding that homelessness is not caused merely by a lack of shelter, but involves a variety of underlying, unmet needs – physical, economic and social. The Continuum is a coordinated community-based process that provides outreach and assessment, emergency shelter as an alternative to the streets, transitional housing with appropriate supportive services (job training/placement, childcare, substance abuse treatment, mental health services) and permanent housing.

The Commission has authorized the use of up to \$150,000 from Resort Tax Funds currently available to contract for emergency shelter beds. These funds will be allocated through a Professional Services Agreement between the City of Miami Beach and Salvation Army, Miami Rescue Mission, Miami-Dade County Homeless Assistance Center and St. Luke's Addiction Treatment Center, as beds are needed and vacancies identified so as to ensure that there is not interruption in services. While the shelters listed represent only a portion of all available providers, these are the providers most likely to have available beds for contract. A list of all shelter providers identified by the Miami-Dade County Homeless Trust which include their capacity and waiting list information is attached.

The cost for these beds varies from \$15.00 to \$32.00 depending on the support services provided by the shelter. The typical bed costs for each provider are:

- * Miami Rescue Mission - \$15 per day, per bed for three meals, shelter and program participation
- * Salvation Army - \$15.45 per day, per bed for three meals, shelter and case management assistance services
- * Miami-Dade County Homeless Assistance Center - \$25 per day, per bed for three meals, shelter and case management services
- * St. Luke's Addiction Treatment Center - \$32 per day, per bed for three meals, shelter and addiction treatment services

The need to contract with more than one provider is based on the availability and type of beds for each provider. The Neighborhood Services Department conducts a comprehensive assessment of each homeless client to determine the factors leading to his/her homelessness. Each of the shelter providers listed provide varying degrees of service levels and employ different service models. The Department seeks to utilize a comprehensive case management model to match each homeless client with the shelter best suited to meet his/her particular needs. Doing this best ensures a successful placement and the ultimate elimination of homelessness for the client.

The Administration recommends that the City authorize the City Manager to enter into an agreement with Salvation Army, Miami Rescue Mission, Miami-Dade County Homeless Assistance Center and St. Luke's Addiction Treatment Center, in order to secure additional

emergency shelter beds.

Upon commission approval, the Administration will negotiate contracts with all four of the providers to establish a base level of emergency beds that will be available to the city.

JMG\RCM\VP\PG\mlr

T:\AGENDA\2003\OCT15\CONSENT\CommMemoEmergencyHsg.doc

MIAMI-DADE HOMELESS

Primary Care Daily Bed Availability Report

Reporting for OCTOBER 10, 2003

PROVIDER	TOTAL CONTRACTED BEDS:	TOTAL ACTIVE CLIENTS:	PENDING CLIENTS:	TOTAL AVAILABLE BEDS
SUBSTANCE ABUSE				
Agape Women's Ctr/Dorcas, Phase I, 2000 SHP	12	12	1	0
Agape Women's Ctr/Visions, Phase II 2000 SHP	12	12	1	0
Agape Women's Ctr/Visions, Phase II 2000 SHP	12	11	1	0
Better Way/2000 SHP	15	15	0	0
BetterWay/2001 SHP	15	14	0	3
Betterway/F&B	6	6	0	0
Better Way/H.A.R.T. /DCF/nontrust	5	5	0	0
Camilus/Villas,2000 SHP	45	45	6	0
J.E.S.C.A./98 SHP	30	30	0	0
New Hope C.O.R.P.S/F&B	16	16	0	0
New Horizons 99SHP/Women with Children Program	10	10	11	0
Riverside House/ 2002 SHP	10	10	1	0
Riverside House/F&B	12	12	0	0
St. Lukes/F&B	6	6	0	0
SUBTOTAL:	206	0	21	3

DD/SUBSTANCE ABUSE				
Bay View/Next Step/2000 SHP	16	15	6	0
SUBTOTAL:	16	15	6	0

DD/MENTAL HEALTH				
Citrus Hlth Netwrk/KIVA/2002 SHP	14	13	23	0
Citrus Hlth Netwrk/Shaman/2001 SHP	24	24	22	0
Citrus Hlth Netwrk/Crisis Outplacement	12	12	21	0
Douglas Gardens/F&B	20	20	6	0
Fellowship House/F&B	12	12	3	0
Fellowship House/Safe Haven/95 SHP	14	13	3	0
New Horizons/F&B	20	20	0	0
New Horizons/P.A.T.H./State Beds	10	7	3	0
SUBTOTAL:	126	121	81	0

NON-TREATMENT				
DHS Boarding Home Pgm/F&B	12	10	54	0
Camillus Non Tx/2000 SHP	34	32	13	0
Camillus/Miami Beach Non Tx/2000 SHP	16	15	17	0
Camillus Non Tx/98 SHP	16	13	2	1
Camillus -Singles/H.A.F.B.96 SHP	30	25	3	2

SUBTOTAL:	108	95	89	3
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HIV/AIDS				
Salvation Army/Here's Hope/2001 SHP	45	45	0	0
SUBTOTAL:	45	45	0	0

FAMILY BEDS				
Carrfour/Homestead/96 SHP	54	74	0	0
Carrfour/Perrine/96 SHP	126	90	31	5
Douglas Gardens/Successful Invest./98	11	10	22	0
Miami-Dade Inn Transition/Phase I,2000 SHP	39	26	13	0
Miami-Dade Inn Transition/Phase II,2000 SHP	42	16	26	0
Miami-Dade Inn Transition South,1994 SHP	267	160	32	75
Lutheran Services/Esperanza Ctr/F&B	45	45	15	0
Lutheran Svcs/New Beginning/2002 SHP	39	32	0	7
Lutheran Svcs/New Day/2002 SHP	20	20	0	0
New Life Family Shelter/Non-Trust	48	32	15	0
Lutheran Services/PIN North/South	50	50	0	0
Camillus South Dade - Court Yards/2000 SHP	35	32	19	0
Camillus South Dade- Families/H.A.F.B.96 SHP**	152	146	32	0
SUBTOTAL:	928	733	205	87

EMERGENCY SHELTER BED AVAILABILITY REPORT				
DATE: OCTOBER 10, 2003				
PROVIDER	TOTAL BEDS	ACTIVE	PENDING	AVAILABLE
EMERGENCY BEDS				
Homeless Assistance Center I	392	385		7
Males				5
Females				2
Families				0
Homeless Assistance Center II	300	309		0
Males				0
Females				0
Families				0
The Salvation Army	60	58		2
Veterans	10	10		0
Males	20	19		1
Females/Families	30	29		1
Camillus Health Concern/Project Dade Cares	7	7		0
TOTAL EMERGENCY:	759	759		9
10/10/2003 NOTES/COMMENTS				
**Please contact Mike Pimentel to place people on the pending list.				
**Please note that the Metatherapy/H.A.F.B. 96 SHP is contracted for 160 beds.				
However, due to construction, only 152 are available at this time.				

*****Please note that Riverside House's 2000 SHP is contracted for 19 beds.**


However, due to pending linens and mattresses, only 10 are available at this time.



C: RCM
Tim
LH

CITY OF MIAMI BEACH
OFFICE OF THE MAYOR & COMMISSION
MEMORANDUM

TO: JORGE M. GONZALEZ
CITY MANAGER

FROM: MATTI H. BOWER 
COMMISSIONER

DATE: October 13, 2003

RE: Traffic Situation on La Gorce and Pinetree Drive

I would like to place an item related to the Traffic Situation on La Gorce and Pinetree Drive on the October 15th Commission Meeting. I have attached a letter from the La Gorce Pinetree Homeowners Association for your review. Bruce Reich, President of the Homeowners Association will be speaking on behalf of the residents.

In order to accommodate the residents, I would like to request a time certain of 5:00 pm.

I thank you in advance for your cooperation in this matter. If you have any questions, please do not hesitate to contact my Aide, Ms. Lorna Mejia at extension 6627.

Thank you.

MHB/ldm

OFFICE
CITY MANAGER
03 OCT 13 PM 4:19

Agenda Item

R9J


Date

10-15-03



CITY OF MIAMI BEACH
OFFICE OF THE MAYOR & COMMISSION
MEMORANDUM

TO: JORGE M. GONZALEZ
CITY MANAGER

FROM: MATTI H. BOWER 
COMMISSIONER

DATE: September 8, 2003

RE: Speeding and Traffic on La Gorce and Pinetree Drive

I have attached a letter from the La Gorce Pinetree Homeowners Association. They are concerned with the speeders and traffic between 51st and 63rd street. They have been working with the City of Miami Beach to find a solution to the problem. Could you please give me a status on the project? I have attached a copy of the letter for your review.

I thank you in advance for your cooperation in this matter. If you have any questions, please do not hesitate to contact my Aide, Ms. Lorna Mejia at extension 6627.

Thank you.

MHB/ldm

RECEIVED
03 SEP - 8 PM 4:14
CITY MANAGER'S
OFFICE

LaGorce Pinetree Homeowners Association

September 4, 2003

Mayor David Dermer
mayordermer@miamibeachfl.gov
Commissioner Matti Herrera Bower
matti@miamibeachfl.gov
Commissioner Simon Cruz
simon@miamibeachfl.gov
Commissioner Luis R. Garcia, Jr.
luis@miamibeachfl.gov
Commissioner Saul Gross
saul@miamibeachfl.gov
Commissioner Jose Smith
jose@miamibeachfl.gov
Commissioner Richard Steinberg
richard@miamibeachfl.gov
City Manager Jorge Gonzalez
jorgegonzalez@miamibeachfl.gov

We, the undersigned, represent the almost three hundred (300) families and taxpayers residing on LaGorce and Pinetree Drives between 51st and 63rd Streets. Our organization has been working with the City of Miami Beach and Miami-Dade County for almost 14 years to seek a remedy for the most serious and dangerous problem our neighborhood faces: traffic and speeders. During that time seven (7) people have been killed, many more have been injured and much property has been destroyed.

Despite increased police traffic enforcement, we still have a major life-safety issue. Over the past decade we have had surveys and several different traffic calming proposals which would have accomplished the goal (single traffic lane with landscaping and a pedestrian/bicycle/baby carriage lane or stop signs or limited access); each in turn was rejected by the City or the County or the State. Finally the City and County agreed to construct traffic calming islands to be planted with a "canopy of trees" (to quote the City's own architect) and uplighted to create a visual barrier and calming effect.

The islands were constructed and then corrected years ago and there continue to be serious accidents and speeding drivers (in fact your own experts warned that without the trees and lighting, things would be worse until completed). For the past three years there has been one delay after another while accidents and injuries continue. First, there was the County's rejection of the City's landscape architect's recommendation for live oak and gumbo limbo trees to form the canopy; then the sudden "discovery" by the City's Public Works Department that there was a sewer line down the middle of our streets; during this entire crisis there has been an almost constant change of city personnel assigned to this problem; and now, after years of assurances otherwise, we are told that there is insufficient money for the project.

When will all the excuses end and this dangerous situation be corrected? Must we wait for the next person to die or be seriously injured and sue the City for gross negligence and take away our hard earned tax dollars?

We respectively demand that you take whatever emergency measures are necessary and find the money to properly landscape and upright these islands. Furthermore, we submit that the failure of this commission to protect the health and welfare of our residents and visitors would be a violation of your fiduciary responsibility.

You need to act now – without further delay.

Thank you for your attention.

LaGorce Pinetree Homeowners Association

By: Bruce Reich, President and James R. Helman, Chairman of the Traffic Calming Committee

Cc: The Miami Herald

The Sun Post

The Miami New Times

C: JB
LH
CMC



**CITY OF MIAMI BEACH
OFFICE OF THE MAYOR & COMMISSION
MEMORANDUM**

**TO: JORGE M. GONZALEZ
CITY MANAGER**

**FROM: SIMON CRUZ
COMMISSIONER**

DATE: OCTOBER 13, 2003

RE: AGENDA ITEM

Please place on the October 15, 2003 City Commission Agenda the attached ordinance amending our policy on alcoholic beverage licenses at Adult Entertainment establishments.

SC/ml

Attachment

Agenda Item R9K
Date 10-15-03

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 6, "ALCOHOLIC BEVERAGES," OF THE CODE OF THE CITY OF MIAMI BEACH, FLORIDA, BY AMENDING SECTIONS 6-40 AND 6-41 "TOTAL NUDITY AND SEXUAL CONDUCT PROHIBITED," AND " PROVISIONS PERTAINING TO ESTABLISHMENTS PERMITTING PARTIAL OR TOTAL NUDITY," TO ALLOW ESTABLISHMENTS LICENSED AS ALCOHOLIC BEVERAGE ESTABLISHMENTS TO OFFER PARTIAL AND TOTAL NUDE ADULT ENTERTAINMENT; PROVIDING FOR CODIFICATION, REPEALER, NONSEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the Code of the City of Miami Beach, as permitted by state law, contains various restrictions on the sale of alcoholic beverages within the City; and

WHEREAS, Sections 6-40 and 6-41 of the Code restrict the sale of alcoholic beverages by persons maintaining, owning, managing or operating an establishment permitting partial or total nudity; and

WHEREAS, the City Commission recognizes the need to provide sufficient opportunity for patrons of businesses in the City to compete with other venues that afford alcoholic beverage establishments offering partial or total nude adult entertainment; and

WHEREAS, in the interest of improving the efficiency of allowing certain alcohol beverage establishments to offer partial and total nude adult entertainment, it is recommended that an ordinance amendments be adopted; and

WHEREAS, this ordinance accomplishes the purposes set forth above.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA:

SECTION 1. That Chapter 6, entitled "Alcoholic Beverages," of the Code of the City of Miami Beach, Sections 6-40 and 6-41, entitled "Total nudity and sexual conduct prohibited" and "Provisions pertaining to establishments permitting partial or total nudity," are hereby amended to read as follows:

Sec. 6-40. Total nudity and sexual conduct prohibited.

(a) It shall be unlawful for any person maintaining, owning, managing or operating an alcoholic beverage establishment to knowingly, or with reason to know, suffer or permit total nudity or sexual conduct to occur on the premises of that alcoholic beverage establishment, except as provided herein.

(b) It shall be unlawful for any person, while on the premises of an alcoholic beverage establishment, to expose to public view those portions of anatomy defined as total nudity, or engage in any sexual conduct, except as provided herein.

(Ord. 1964, § 18-9; Ord. No. 89-2665, § 12-4B, eff.10-1-89;Ord. No. 90-2678, § 2)

(c) An adult entertainment establishment permitting live total nudity under an active occupational license may obtain an alcoholic beverage license, provided, it complies with all state, county, and municipal requirements.

Sec. 6-41. Provisions pertaining to establishments permitting partial or total nudity.

(a) *Location generally.* No alcoholic beverage establishment permitting partial or total nudity is permitted on a parcel of land located:

- (1) Within 300 feet of any district designated as RS, RM, or RPS on the city's official zoning district map;
- (2) Within 300 feet of any parcel of land upon which a house of worship, school, public park or playground is located; or
- (3) Within 1,000 feet of any parcel of land upon which another adult entertainment establishment is located.

A hotel with a minimum of 300 units shall be exempt from subsections (a)(1), (2) and (3) of this section.

(b) *Location, mandatory requirements.*

(1) The minimum building size of the alcoholic beverage establishment permitting partial or total nudity shall be ~~8,000~~ 7,000 square feet.

(2) An alcoholic beverage establishment permitting partial or total nudity shall have no less than 250 seats.

(3) An alcoholic beverage establishment permitting partial or total nudity shall have a full ~~-service restaurant and~~ kitchen on-site, offering a complete menu during the operating hours of the establishment.

(4) Parking required for an alcoholic beverage establishment permitting partial or total nudity shall be minimum of one space per three seats, all of which shall be located on- site, except as provided in Chapter 130 .

(5) An alcoholic beverage establishment permitting partial or total nudity shall have no exterior signage ~~describing or depicting the activities regulated by this article taking place~~

within the premises depicting any nudity, and permitted signs shall be subject to the review and approval of the Historic Preservation Board or Design Review Board, whichever by law has jurisdiction.

(6) Partial or total nudity in alcoholic beverage establishments shall occur only between the hours of ~~8:00 p.m. and 4:00 a.m.~~ of noon and 5:00 a.m.

The minimum distance separation shall be measured by following a straight line from the main entrance or exit in which partial or total nudity associated with an alcoholic beverage establishment occurs to the nearest point of the property designated as RS, RM, or RPS on the city's official zoning district map or used for house of worship, school, or public park or playground. In cases where a minimum distance is required between an alcoholic beverage establishment permitting partial or total nudity, and another adult entertainment establishment, the distance separation shall be determined by measuring a straight line between the principal means of entrance of each use.

(c) *Prohibited activities.* No person shall own, operate, manage, work or perform, at any alcoholic beverage establishment permitting partial or total nudity on the premises unless the following mandatory requirements are observed therein:

(1) Persons engaged in displaying partial or total nudity are prohibited from ~~dancing or~~ simulating sexual activity with any patron, spectators, employee or other person on the premises. Lap dancing shall not be considered a violation of this ordinance.

(2) No person shall engage in the display or exposition of partial or total nudity except while the person is positioned at least three feet from a patron, except for lap dancing as permitted herein. It shall not be a violation of this section for touching of a performer or dancer while partially or totally nude by a patron for the sole purpose of providing a gratuity.

(3) No person maintaining, owning, or operating such an establishment shall suffer or permit the construction, maintenance or use of areas partitioned or screened from public view and public areas that are designed to be occupied or are commonly occupied alone or together by any person or persons on the premises of such establishment for private performances involving the display or exhibition of partial or total nudity.

~~(4)~~(3) No person on the premises of such establishment shall be permitted to use or to be present in areas partitioned or screened from public view and public areas that are designed to be occupied together or alone by any person or persons on the premises of such establishment for the display or exhibition of partial or total nudity.

~~(5) No partially totally nude person who performs in the establishment shall be permitted to converse with patrons regarding any prohibited activity while on the premises prior to, during or after a performance. Performers may only be totally nude while performing on stage, except that performers may be topless while performing lap dances. Otherwise, performers shall not be partially or totally nude.~~

(6) Prostitution or solicitation for prostitution as defined in the F.S. § 768.01 shall not occur on the premises.

(7) There shall be no sale or use of controlled substances as defined in F.S § 893.02(4) on the premises.

(d) *Compliance with codes, standards.* The establishment shall be in compliance with all applicable fire, property maintenance and building codes at all times. If a building is an historic structure as defined in section 114-1, it shall conform secretary of the interior's standards for historic places.

(e) *Department reports.* A certificate of use or occupational license shall not be issued until the city manager, or his designee receives reports from the city's police, fire, building services and code compliance departments that the above regulations have been complied with.

(f) *Variances.* Variances to the provisions of subsections (a) and (b) of this section may be granted pursuant to the procedure in section 118-351 et seq.
(Code 1964, § 18-10; Ord. No. 89-2665, § 12-4C, eff. 10-1-89; Ord. No. 90-2678, § 2)

SECTION 2. REPEALER.

All ordinances or parts of ordinances and all sections and parts of sections in conflict herewith be and the same are hereby repealed.

SECTION 3. CODIFICATION.

It is the intention of the City Commission, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of the City of Miami Beach as amended; that the sections of this ordinance may be renumbered or relettered to accomplish such intention; and that the word "ordinance" may be changed to "section" or other appropriate word.

SECTION 4. NONSEVERABILITY.

It is the intention of the City Commission that all provisions of this Ordinance are integral to and dependent upon all other provisions thereof, and thus if any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be severable from the portion declared invalid.

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED and ADOPTED this _____ day of _____, 2003.

ATTEST:

MAYOR

CITY CLERK

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

City Attorney

Date

T:\AGENDA\2003\oct1503\regular\Adult Entertainment and Alcohol Ordinance proposed by Madonna.rev100903.doc

City of Miami Beach - City Clerk's Office

July 2, 2003 / REGULAR AGENDA / R5 - Ordinances

5:28:09 p.m.

R5B An Ordinance Amending Chapter 6, "Alcoholic Beverages," Of The Code Of The City Of Miami Beach, Florida, By Amending Sections 6-40 And 6-41 "Total Nudity And Sexual Conduct Prohibited," And "Provisions Pertaining To Establishments Permitting Partial Or Total Nudity," To Allow Establishments Licensed As Alcoholic Beverage Establishments To Offer Partial And Total Nude Adult Entertainment; Providing For Codification, Repealer, Severability, And An Effective Date.

First Reading .

(Requested By Commissioner Simon Cruz)

ACTION: Item referred. Motion made by Commissioner Gross to refer the item to the Planning Board, for two hearings, with the understanding that the City Commission is in agreement with the serving of alcohol in nudity establishments and the concerns are controlling proliferation, hours of operation, security, and kitchen component, and to refer the Planning Board's recommendation to the Community Affairs Committee; seconded by Vice-Mayor Bower. Ballot vote: 7-0. Jorge Gomez and Mayra Diaz Buttacavoli to place on the Committee agendas. Jorge Gomez to handle.

CITY OF MIAMI BEACH
City Manager
Interoffice Memorandum



To: Mayor Dermer and
Members of the City Commission

Date: October 15, 2003

From: Jorge M. Gonzalez
City Manager

A handwritten signature in cursive script, appearing to read "Jorge", written over the printed name.

Subject: **ALCOHOL AND NUDITY ORDINANCE**

At the July 2, 2003 meeting of the City Commission, this item was referred to the Planning Board for its review and comment. The City Commission also expressed the sentiment that they were generally in agreement with the serving of alcohol in full nudity establishments, but cited concerns such as controlling proliferation, hours of operation, security, and a kitchen component. The Commission also requested that the Planning Board's recommendation be referred to the Community Affairs Committee for further discussion. During the discussion of this item at the Commission meeting, other concerns were stated, such as touching of performers, lap dancing, signage, distance separation, size of the club and gratuities.

The Commission had concerns regarding unintended consequences that could not be foreseen at this time and requested that the Planning Board discuss the issues touching performers, lap dancing, signage, hours of operation, distance separation, kitchen, size of the club, and gratuity, among others.

The Commission also had a lengthy discussion relative to the quality of these venues and that if there are going to be nudity and alcohol clubs they should be elegant, not sleazy; and that one of the criteria should be the issue of security. The Commission believed that there has to be sufficient security provided to insure that the laws are observed. They also requested to include in the ordinance a provision which states that if the law is violated, willfully or wantonly, the privilege of having this type of establishment would be revoked.

ANALYSIS

In order to facilitate the discussion, the following matrix is a summary of the adult entertainment regulations currently existing in nearby communities:

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Jurisdiction	Permitted	Regulations	Liquor	Hours	Distance	Variance For distance	Appeals
Miami-Dade Co.	In IU-1 (industrial)	Total nudity, no sexual activity in premises; viewing rooms open at all times; etc.	Yes; only from 8 am to 4 am week Days; Sundays beer only from 10 am to 4 am following Monday; other alcoholic beverages on Sunday from 5p to 4a following Monday	Everyday all patrons off premises by 5 am	1000' from schools, church, park, public library child day care center ; 1200 from similar use; 750 from residential		Board of Co. Comm.
Aventura	B3 district (heavy business, semi-industrial), as Cond. Use	Total nudity, no touching by patrons	Not stated	None stated	1000' from schools, church, park, library, day care center; 1000' from ea. other; 660 feet from residential		
Hialeah	In districts where book video stores, movie theaters and nightclubs are permitted	Total nudity; no physical contact with anyone on the premises; no prostitution or solicitation, & others	Permitted in nude clubs (nightclubs with totally nude entertainment)	None stated	1000' from similar use; 500' from schools, child care, church, residential zoning or classified as such in FLUM	By City Council approval	
Village of Key Biscayne	Not permitted						
Miami	District not specified	Not specified	Not specified	None stated	1000' from residential, school or park	No	
Miami Beach	In commercial districts only	Prohibitions: Dancing or simulating sexual activity with anyone on the premises; shall be at least 3' from a patron; private rooms; conversation with patrons on the premises prior to, during or after a performance; prostitution or solicitation.	Not permitted in totally nude establishments		300' from residential; 300' from churches, schools, park or playground; 1000' from similar use.	Zoning Board of Adjustment	Circuit Court

North Miami	In M-1 (industrial)	No private viewing rooms;	Prohibited in adult entertainment establishments		500' from similar use, residential, house of worship, park, or school	No	Circuit Court
North Miami Beach	B-5 – medium industrial	Prohibits total nudity where alcoholic beverages are served. No lap dancing, private performance touching allowed.	Not permitted in totally nude establishments	Not allowed to provide services between the hours of 2 a.m. and 9 am any day of the week	1000' from religious institution, educational institution; 500' from residential; 1000' from parks; 200' from alcoholic beverage establish.		City Council
Broward Co.	Planned commercial and industrial centers	No lap dancing; no sexual activity; no touching below the neck and above the knee; no private performance		Shall be closed between the hours of 2:00 a.m. and 8:00 am on all days	1000' from similar use, place of worship, child care center, educational facility; 500' from residential.		

The ordinance under review proposes the following:

1. The sale of alcoholic beverage in totally nude entertainment establishments.
2. Reduce the building size for an alcoholic beverage establishment with total nudity or partial nudity entertainment, from 8,000 down to 7,000 square feet.
3. Maintain the minimum number of seats in alcoholic beverage establishment with total or partial nudity entertainment at 250. This provision ensures that these types of establishments will be reviewed pursuant to the Conditional Use process.
4. Require a full kitchen on-site, offering a complete menu during hours of operation.
5. Amend the sign regulations for this type of establishment.
6. Amend the hours of operation for an alcoholic beverage establishment offering total or partially nude entertainment from 8:00 p.m. to 4:00 a.m., to noon to 5:00 a.m.
7. Permit touching of performers for the purpose of providing a gratuity.
8. Permit lap dancing as an allowed activity.

PLANNING BOARD ACTION

After a lengthy discussion, the Planning Board directed staff to meet again with Mr. Griffith and his attorney to fine-tune the request and come back at the October meeting. The direction from the Board was to discuss further the following issues: existing graphic signage at Club Madonna; the existing TV monitor; upgrade of the structure to make it look better; lap dancing.

Prior to completing these discussions, the item has been brought back to the City Commission for its review

CONCLUSION

The Administration suggests that the City Commission not take any action at this time and allow the ordinance to conclude the process as requested at the July 2, 2003 meeting.

JMG/CMC/JGG/ML

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